

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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TONY ALLEN PRESSLER,

Case No. 3:20-cv-00674-MMD-CLB

Plaintiff,

ORDER

NEVADA, STATE OF, *et al.*,

Defendants.

I. DISCUSSION

On December 4, 2020, Defendants filed a petition to remove this case from the Fourth Judicial District Court of the State of Nevada to the Federal District Court for the District of Nevada pursuant to 28 U.S.C. § 1441(b). (ECF No. 1.) Defendants' petition for removal was based on the presence of a federal question due to Plaintiff's brief reference to 42 U.S.C. § 1983 in his Complaint. (*Id.* at 2.)

Because it was not entirely clear from the Complaint what claims Plaintiff was bringing, the Court issued an order to show cause directing the Defendants to show cause as to why this case should not be remanded to state court for a lack of subject matter jurisdiction. (ECF No. 6.) The order to show cause provided that Plaintiff could file a response within 15 days of the Defendants' filings. (*Id.*)

The Defendants filed a response to the order to show cause arguing that although Plaintiff's claims were not clear, the factual allegations, together with the explicit reference to 42 U.S.C. § 1983, suggested that Plaintiff was attempting to bring constitutional claims. (ECF No. 8.) Plaintiff did not file any response.

On April 5, 2021, the Court screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A. (ECF No. 10.) The Court determined that Plaintiff's claims appeared to be duplicative of a previous case filed in this Court and the screening order directed

1 Plaintiff to show cause as to why this case should not be dismissed as duplicative of
2 his previously filed case. (*Id.*)

3 Plaintiff has filed a response in which he indicates that he filed this complaint
4 in state court because he is only bring state law tort claims. (ECF No. 12.) He indicates
5 that the reference to 42 U.S.C. § 1983 was made in error and that it is not clear to him
6 why this Court has jurisdiction over this case. (*Id.* at 2.)

7 In light of Plaintiff's clarification that he is only bringing state law tort claims,
8 and that the reference to 42 U.S.C. § 1983 was made in error, the Court finds that
9 there is no federal question presented in this case, and the Court does not have
10 subject matter jurisdiction over this case. Under 28 U.S.C. § 1447(c), following
11 removal of a case from state court, "[i]f at any time before final judgment it appears
12 that the district court lacks subject matter jurisdiction, the case shall be remanded."
13 Accordingly, the Court administratively closes this action and remands this case back
14 to the Fourth Judicial District Court of the State of Nevada.

15 **II. CONCLUSION**

16 For the foregoing reasons, the Clerk of the Court is directed to administratively
17 close this case and remand this action back to state court.

18 DATED THIS 14th Day of May 2021.

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22 MIRANDA M. DU
23 CHIEF UNITED STATES DISTRICT JUDGE
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